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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,890	05/22/2001	Ronald D. Hoover	15562-2 (6750.3)	8852
21176	7590	03/04/2004	EXAMINER	
SUMMA & ALLAN, P.A. 11610 NORTH COMMUNITY HOUSE ROAD SUITE 200 CHARLOTTE, NC 28277			FOSTER, JIMMY G	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/862,890

Applicant(s)

HOOVER, RONALD D.

Examiner

Jimmy G Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1) Claims 5-7 are allowable.

2) The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3) Claims 1 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by Holmes (2,220,817). In the reference of Holmes, there is provided a container for fishing tackle. The container includes a bottom at 13 and a continuous wall at 10-12,20,22.

Within the container are channels, which are located between the swingable panels/barriers 35 and also between one of the swingable panels and the bait supporting panel/barrier 34. When said panels/barriers are tilted, as shown in Figure 1, the channels may be said to include an upper portion and a lower portion, wherein the lower portion is offset with respect to the upper portion, such that one of the panels 35 of the channel will overhang the lower portion of the channel. Accordingly, in the opened configuration of Figure 1, if a fishing lure is placed loosely and horizontally in one of said channels, with lure hooks facing the bottom 13, the weight of the lure body will cause it to come to rest under said overhang. Although this horizontal lure placement is not taught by the Holmes reference, it is inherently capable of being performed by the container of Holmes. This inherent capability meets the intended use claimed by Applicant regarding placement of a lure.

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Regarding claim 4 of Applicant which calls for the channel to have a constant separation, the configuration of Figure 1 shows the panels/barriers 35 to be parallel to each other, which would give the channels constant separation.

4) The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

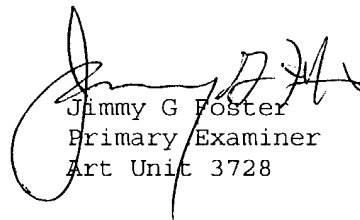
5) Claims 2 and 3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Holmes (2,220,817). The examiner asserts that tilting any of panels 35 while leaving other panels 35 vertical, as desired, is within the level of skill in the art and would have been an expected selective use of the Holmes container since the panels are not linked for common movement. Regarding claims 2 and 3 of Applicant which call for a partition which is perpendicular to the container bottom, the central swingable panel 35, which is disposed two away from the wall 10, defines such a partition. The channels between the central partition and the wall 10 define additional channels. To have left the centrally located panel and the panel closest to the wall 10 perpendicular to the bottom 13, while tilting panel 34 and the next adjacent panel 35 (to the panel 34), would have been obvious as falling within such expected selective use of the panels since the panels are not linked.

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6) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (703) 308-1505. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (703) 308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Jimmy G Foster
Primary Examiner
Art Unit 3728

JGF
1 March 2004